

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
W. R. GRACE & CO., et al., ¹)	Case No. 01-01139 (AMC)
)	(Jointly Administered)
Reorganized Debtor.)	
)	
)	Related document: 33215 & 92630

REQUEST TO CANCEL JUNE 24, 2021 HEARING

The Reorganized Debtor respectfully requests that the Court cancel the hearing scheduled in the *Notice of Hearing*, filed March 16, 2021 [Docket no. 929630] (the “Notice”) for a “motion for sanctions” to be filed by Gary S. Smolker. The Court set the hearing date in response to Mr. Smolker’s *Request for Hearing Date for Motion Seeking a Court Order* (the “Request for Hearing Motion”) that would impose sanctions against various of the Reorganized Debtor’s counsel, docketed March 15, 2021 [Docket no. 33215]. Mr. Smolker’s Request for Hearing Motion stated that he needed “at least 60 days” to serve and file his intended sanctions motion, which would have put the putative filing date in mid-May 2021.

Consistent with Del. Bankr. LR 9006-1(c)(ii), the Notice set June 3, 2021, as the deadline by which any responses or objections to such a motion for sanctions were to be filed. On March 16, 2021, the Reorganized Debtor filed a *Certificate of Service* [Docket 929632], stating that Mr. Smolker had been served with the Notice by both e-mail and by next-day mail. The Reorganized Debtor’s business records state that delivery of service was made on March 17, 2021. On March 18, 2021, the Clerk of Court filed a *Certificate of Service* for the Notice [Docket no. 33221]. That certificate of service does not state that service was made to Mr. Smolker.

¹ W. R. Grace & Co. (f/k/a Grace Specialty Chemicals, Inc., or “Grace”) is the sole remaining “Reorganized Debtor,” and Case No. 01-1139 is the sole remaining open chapter 11 case.

On March 16, 2021, counsel for the Reorganized Debtor furnished Mr. Smolker via e-mail correspondence a courtesy copy of docket entry 929630, along with copies of this Court's March 16, 2021 opinion and the concomitant order disallowing Mr. Smolker's claim. *See Exhibit A.*² The e-mail correspondence requested Mr. Smolker verify that he intended to file his motion for sanctions by May 10, 2021, approximately sixty days after the date of his motion seeking a court date. *Id.* Mr. Smolker responded the same day, indicating that there were certain impediments to his filing a motion for sanctions, and that he did not know when he would file any such motion. *See Exhibit B.*

The docket indicates that no such motion was ever filed. Moreover, during a telephone conference on June 3, 2021, with counsel for the Reorganized Debtor, regarding the pending appeal of this Court's March 16, 2021 order disallowing Mr. Smolker's claim, Mr. Smolker acknowledged the need to cancel the June 24 hearing and informed counsel that he would request such cancellation. Subsequent to that conference, Mr. Smolker sent e-mail correspondence to counsel for the Reorganized Debtor stating that he was refusing to request cancellation of the hearing, even though he had not timely filed his motion. *See Exhibit C.*

The Reorganized Debtor therefore respectfully requests that the June 24, 2021 hearing be canceled.

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the

² Exhibit A does not include copies of the March 16, 2021 opinion and order disallowing Mr. Smolker's claim, as they are not directly relevant to this Motion. Exhibit A therefore only contains a copy of the first page of the e-mail notice of the e-mail docket entry setting the June 24, 2021 hearing.

District of Delaware, dated February 29, 2012. Venue is proper before this Court under 28 U.S.C. §§ 1408 and 1409.

NO PRIOR MOTION

2. The Reorganized Debtor has not filed with this or any other court any prior motion seeking the relief sought herein.

NOTICE

3. Notice of this Motion has been given to: (i) the Office of the United States Trustee; (ii) Counsel for the WRG Asbestos PI Trust; (iii) Counsel for the Asbestos PI Future Claimants Representative; (iv) Counsel for the Asbestos PD Future Claimants Representative; (v) Counsel for the WRG Asbestos PD Trust (7A); (vi) Counsel for the WRG Asbestos PD Trust (7B); (vii) Counsel for the CDN ZAI PD Claims Fund; (viii) those parties that requested service and notice of papers in accordance with Fed. R. Bankr. P. 2002; and (ix) Gary S. Smolker. In light of the nature of the relief requested, the Reorganized Debtor submits that no further notice is required.

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WHEREFORE, the Reorganized Debtor respectfully requests that the Court cancel the June 24, 2021 hearing.

Dated: June 4, 2021

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